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November 12, 2010

An Open Letter to Jane Looney
Director, Accounts Management, Wage & Investment
Dept. of Treasury, IRS, Atlanta, Ga 30308

Re: A Ten Year Horror Story of an Injured Spouse Claim; Request for an Accounting of Specific Intercepts and Injured Spouse Claims, Attached hereto.

Dear Jane Looney;

Thank you for your Form letter L1_14054 of October 29, 2010 seeking feedback from those who have been through the injured spouse process. While we will fill out your "Customer" Survey, what we present here is a ten year and continuing horror story that you NEED to know to evaluate the effectiveness of the injured spouse claims process.

Overview: In 2001 the IRS intercepted my wife's separate property tax refund on our joint return, of \$1200 to apply to my defaulted student loan from before our marriage. She filed an Injured Spouse Claim for the entirety pursuant to California Community Property Law and a nuptial agreement that her income was her separate property. The IRS returned half and forwarded \$600 to DoE. A second claim was made. The IRS pretended it did not understand how there could be separate property in a community property state and denied the second injured spouse claim. We filed a claim in the small claims Tax Court from which there is no appeal. Trial was held and briefs submitted. In August 2004, the Tax Court denied the claim. That should have ended it, except: The position taken by the IRS attorney and the Tax Court were in a bad faith conspiracy to violate the law. That kind of case never ends because it reveals a systematic corruption of the system that rewards arbitrary determinations of law under color of law in perversion of the entire administrative/judicial system.

The corrupt tax court ruling aggravated a Vietnam War related Post Traumatic Stress Disorder (PTSD) which was already intensified by Iraqi War II for which the VA was treating me. I couldn't deal with the IRS until I recovered, nor would I let my wife do the tax returns. The IRS took an unconscionable advantage by a "Notice of Deficiency" on sale of our home claiming we owed it a quarter million dollars. We proved the sale was tax exempt and not even reportable, but the issue became one of blatant oppression and extortion through repeated threats to get a tax judgment for a quarter million unless we paid \$8,000. This was litigated for three years exposing and recording other types of systemic IRS corruption. The IRS extortion ended on the record immediately before trial on my threat to expose it to the tax court in such a way that the court would have to deal with it, and the IRS conceded 97% of its claim before trial as absolutely meritless. Thereafter, another corrupted trial was had on the remaining 3% of the IRS Claim, and again, a corrupted ruling made. That ruling exposes the fact and nature of an officially designed and authorized conspiracy to commit extortion and systematically violate the due

process of law involving the IRS Commissioner, the Tax Court Judge and the IRS attorney.

That remaining 3% is now on appeal to the Ninth Circuit. While that is pending I will bring the criminal aspects of that extortion before the federal grand jury, as my duty to the Constitution of the United States requires. And all of this and more because the IRS refused to treat an injured spouse claim fairly.

The Details of the Above Overview: Let me tell you what the combination of tax refund intercepts and injured spouse process actually does from the tax payer's point of view: It perverts the Internal Revenue System and it creates citizen enemies through an oppressive abuse of the tax collecting system. It tends to characterize government in reckless disregard of the Constitution and general law of the land, and it personifies government unifying its power against the people for the greater power of the state.

My alleged debt arose out of a student loan needed after I exhausted the GI bill to attend law school in 1974-75. I purposefully resisted paying it from the early 1990s hoping to get a jury trial on whether I owed it because of a huge government fraud that denied me the benefit of the loan. Attached is a Notice of Discharge from DoE. That discharge is due to service connected disability. That is relevant.

War affects combat veterans in many different ways. For me, it wasn't combat itself, it was what we did to Vietnam and its people, mostly farmers, non combatants, women and children. I was a hardened Recon Marine operating deep behind enemy lines, but as I watched the artillery I'd called explode over the target killing a Vietnamese woman and four men carrying what seemed to be military supplies, I made a vow that I would find, understand and expose whatever it was in our country that caused us to do this kind of evil thing in foreign lands. I had no idea of what to look for or how long it would take. I was a high school dropout, but that didn't matter. When I got back to the World, I just started doing what I needed to learn the domestic causes of unjust war: I took high school make up courses, junior college, then to the University of Wisconsin. When I exhausted the Philosophy Department at Milwaukee, I went to Madison, always searching to understand what could be such a cancer on our system as to cause the mass insanity of the Vietnam War.

From 1966 to 1972, school was off and on again. I dropped out to be a policeman, a car salesman, a small business manager, milkman and taxi driver. I didn't really believe I could learn what I needed to accomplish my mission, but each time I stopped going to school I would see her face as I last saw it through binoculars, and she would remind me: "You promised that you would understand. That is why I died, so that you would do what it takes to expose the evil thing that caused you to kill me." I had to go on to give her death the meaning that I gave it the day that I made that vow.

In my senior year at UW-Madison, I begin to understand. The malignancy I was looking for had to be in our legal system, but it wasn't in the Constitution. Somewhere in between the Constitution as it is written and its application, something terrible to the Nation was happening. I decided to become a lawyer to better understand what that "something" was. My GI Bill was exhausted, so I had to

borrow money to go on, and I did. When that money was about exhausted, my college girlfriend came to California. We married and she supported me through law school on an agreement that her income would be her separate property and my income would be community property. That agreement created a transposition of our property interests under California Law. From then on, her earnings were her separate property, which she used to support us.

I made regular payment on the school loan until 1987 or so, then defaulted and the government took over the loan, and I made payments to it by agreement. Up to about 1990, there was no question but that I owed it and would pay it. By then I was almost twelve years a lawyer. I had found what I thought was the thing that I was looking for in the judiciary: A "looseness in the judicial decision making process" but I didn't understand how that could have the massive political/cultural effects necessary to cause unjust wars. So I made plans to study and expose it: I would become a judge, then an appeals court judge, and eventually I would write and teach about the "fountainhead of the domestic corruption that causes unjust foreign wars", a "malignancy" in the judiciary that defeats the plan of our Constitution.

That was the plan. So we moved to "El Corrupto" (El Dorado County) in the foot hills east of Sacramento and I ran for Judge on an anti corruption platform in which as Judge, I would turn the grand juries loose to search out corruption in local government. Big mistake: All hell broke loose. I became a target for everyone in government: Deputy Sheriffs, prosecutors, judges and even animal control would team up to create reasons to arrest, jail and prosecute me. In three years I was prosecuted a dozen times, including for a phony felony. Each time I would beat the criminal prosecution and then sue the corrupt bastards, and each time they would claim immunity and the federal judges would agree, and I would appeal, four, five maybe six times to the US Supreme Court, Cert denied. I was beat up badly, both physically and emotionally. In jail deputies took me into a rubber room and slammed me against the walls like a rag doll, then when I couldn't move, they stretched me out on the floor, two holding me down while a third kicked in and broke four ribs, and I was prosecuted for assaulting them. Emotionally; I could barely practice law, my wife was followed around by deputy sheriffs, my six year old son was with me in court when the prosecutor arrested me while in trial for exposing his witness as a perjurer, and my son taken into "protective custody" while I was taken to jail. In 1990-91, my Vietnam Marine Recon Battalion got together in Los Vegas and I went to the reunion and learned that the Corpsman on that patrol where I made the call that the Vietnamese woman and four men were enemy combatants, had brought war crimes charges against my commanding officer. He was tried by courts marshal. He won the trial but lost his military career over it. We talked by phone. He wanted my reassurance that it was really an enemy patrol. I reassured him and he asked me to tell his wife that, and I did. Then he asked me, "Wolf, there were no women or children in that patrol, were there?" What could I say?

"There were no children in that patrol, Colonel. But there was a woman. She was kind of pretty, about nineteen years old with long black hair and a scar under her left eye. I saw her through your binoculars when her coolie fell back as she turned a corner in the trail. She seemed to be looking right at me. I assumed that you knew Colonel." There was a long pause, then a soft voice, "No, I didn't know."

Then it occurred to me, I had his binoculars when her hat fell off. He didn't know. It was my job to tell him. I had always been proud of my personal conduct in Vietnam. I did my job well over Sixty-six deep penetration missions. I was point team leader and my job was to get his men to where they had to go, and back safely; and above all else, to provide him with the information he needed to make decisions. I had always done that, until now. Six times we had gotten into ambushes, and every time I got all of his men out alive. Now I began to doubt, maybe they weren't the enemy, and then on other missions and combat situations, I began to see more possibilities of mistake and I could no longer be sure that I didn't kill non combatants, and the more that I thought about it, the worse the possibilities became. We were the "eyes and ears" of the Third Marine Division. If I brought back faulty information, bombs could be dropped over whole areas where I had mistaken innocent civilian activity for enemy activity.

In the meantime, the First Gulf War was taking its emotional toll, and then the State Bar undertook to prosecute me for the "moral turpitude" involved in the several political criminal prosecutions while two convictions were on appeal and ultimately reversed. During that time, I didn't take any cases unless they were just screaming with injustice. So there was this black woman whose only crime was being black in a lily white part of El Corrupto County, and I volunteered to defend her pro bono. As I discussed the facts and their meaning under the Constitution with the jury, without warning, I just begin to cry, and I couldn't stop. And that is still the way it is: When I think about injustice, I just cry. I can't help it.

The State Bar didn't find moral turpitude, but they found my legal philosophy which focused on the forces of judicial corruption more than a little curious and probably treasonous and on that, a three day State Bar trial that I would win hands down, turned into a full year long enquiry into my developing legal philosophy which I did understand and could explain to the chagrin of State Bar Officials, and my emotional state which I didn't understand and could not explain. They sent me to a psychologist for testing. There was no problem until he had me describe what I saw in a set of pictures, and still no problem until it came to a picture of a farm family in a peaceful setting that both reminded me of what could have been a Vietnamese family that I mistook for the enemy, and my own family and the price we were paying to make good on my vow, but I just couldn't let it go. I just began to cry, and the State Bar officials knew that they had something on me, and I was convicted on the undiagnosed symptoms of combat related Post Traumatic Stress Disorder; of being a patriot mentally incompetent to practice law.

That was in mid 1993. By that time the criminal convictions on which the State Bar began its enquiry had been reversed and dismissed. I sued the State Bar under the American with Disabilities Act, but the Federal Courts held that the false Eleventh Amendment they had created precluded ADA jurisdiction over the States and the State Bar was a State Agency which had "Eleventh Amendment" immunity. I have not practiced law since, except when people come to me with extremely unjust situations and cannot otherwise afford legal help.

In the meantime, I took several cases up on appeal and learned more and more about what the THING was inside of the judicial system that so defeated the Constitutional design of our Nation. Then, in 2000, I wrote about it in a law review

article entitled ***How the Judiciary Stole the Right to Petition*** 31 UWLA Law Rev. 257, and then in January 2001, I published ***Democratizing the Judiciary*** broadly on the internet, both available by Google to my name or their titles. These two articles describe the judicial problem in the historic, philosophic and legal context and offer an evolutionary solution, which is basically, a solution to Mr. Obama's quest for transparency and accountability in government.

Why I challenged the DoE Debt: By 1993 I knew enough about how and why judicial corruption occurred and its scope and depth that I could see two separate kinds of "law" in America. One legit, the Constitution and the laws made pursuant to it. The other was illegitimate and in derogation of the Constitution. The problem was that law schools ignored the Constitution as it is written, and neither taught it, nor how to find the Supreme Law of the Land made pursuant to it. Rather, law schools taught a false law, the law of judicial supremacy and stare decisis, and that allowed the courts to make false law out of whole cloth causing massive changes in the direction of the Constitution design. In other words, law schools did not teach law, but rather they taught government propaganda about what the Supreme Court redesigned the law to be. I (and all lawyers) had been defrauded out of a legal education. For most lawyers who were in it for the money, that didn't matter. But for me, the only reason I became a lawyer was to learn the law to find out what was going on that defeated the Constitutional plan. Oh, I learned that all right, but not from law school. I learned it by fighting a corrupt government toe to toe for four years and taking those cases up to the Supreme Court. I learned through the adversarial process where I could judge the arguments, pro and con, on my own and that cost me terribly.

I borrowed from the Bank of America and BofA had nothing to do with legal education. So, I would have paid the debt to the BofA. But when the US took the debt over, that debt was to pay for the fraud that the government was perpetrating on the people. There is no way I can under my oath, pay government for teaching false propaganda disguised as "law". I wanted a jury trial on the government fraud.

The IRS Intercepts: Through the 1990s, I had almost no income so I either did not file returns or did not file jointly with my wife. So there were no intercepts. In 2001 we were putting our son through college and that entitled us to college tax credits, but to get them we had to file jointly. We did and from my wife's income there was \$1200 excess withholding. A tax intercept took it all. She filed an injured spouse claim setting out the nuptial agreement that made her earnings separate property. The IRS returned HALF of the intercept. We made a second claim. The IRS refused to change its position. So we prosecuted a claim to the small claims tax court from which there is no appeal. We had a trial and briefed the issue. There is no doubt that both the IRS attorney and the judge knew that we were right but the court ruled against the Injured Spouse Claim. I am a qualified expert at spotting that kind of judicial corruption, and it was clearly there. The corrupt court order came down in August, 2004.

In the meantime the second Gulf War was underway. You cannot believe how I opposed that war. I knew absolutely that President Bush lied about WMDs and about Saddam supporting bin Laden just as LBJ lied about the Gulf of Tonkin Incident and the "Domino Effect". Then the last bastion of administration integrity, Colin

Powel lied to the UN and the slide into another Vietnam type of quagmire was inevitable. In 2002 when the war began I was regularly going to the VA hospital for treatment of a Vietnam combat related neck injury. On the way I listened to the war reports of American soldiers killing Iraqi families fleeing battle zones but didn't know that they had to stop at the road blocks. I started crying and couldn't stop. The VA doctor sent me to mental health. They thought I was having a psychotic break down. But I wasn't. I was rational, I just couldn't talk through the crying, and then a nurse questioned me and had me write the answers. She was the first person to recognize Vietnam related PTSD symptoms. I was put under longer term outpatient psychiatric care, for four years.

My wife knew I had some kind of serious PTSD problem, but I never talked to her about the crying or the depression. I didn't make a claim to VA for disability until September 2009. But in 2003 I was more like a zombie than a highly educated lawyer and legal philosopher. To try to pull me together, she offered to sell our home and we would move up into the mountains and build a house that we could make into a retirement business, a bed and breakfast type of home. In the spring of 2004 we sold our city home and bought a mountain property and moved onto it in a motor home; and she drove over a hundred miles each day to work and back, and at night we planned and we lived in that motor home for three years and built our mountain bed and breakfast home. That saved my sanity, and probably my life.

In 2004 when the Tax Court denied her 2001 Injured Spouse Claim, I simply could not deal with it. I knew too much about how judicial corruption worked; it wasn't just a single instance, it was an entire system of malignancy which in turn created and superimposed a culture of corruption that at one end infected our entire political system and at the other, caused unjust foreign wars. It wasn't just the IRS. It was the entire judicial system that covered up government corruption with judicially created anti-constitutional immunity. And it wasn't something new. Rather, it has been accumulating since 1791, as I documented in ***How the Judiciary Stole the Right to Petition***. So, for three years I didn't do our taxes. I knew we would spend over \$250,000 building a home specially designed for a business and that along with my wife now having a first business of building the house before each day's commute, I could effectively zero her tax obligation on her \$50,000 a year employment income over those years.

But the IRS wasn't hearing it. They determined that we sold our city home for \$426,000 dollars and didn't report it, which we did not have to because the whole selling price was less than the non reportable gain allowed to husband and wife filing jointly, let alone the actual gain which is less than the non reportable gain of a single filer. But, we hadn't filed returns for that year yet, and so the IRS claimed a deficiency on the entire \$426,000 as taxable gain and we owed \$250,000. That exceeded our entire net worth including my wife's retirement savings. For almost a year I just couldn't address it and I wouldn't let my wife address it. Then, just before the filing dead line I pulled together enough emotional strength to file returns and a response in Tax Court denying that we owed anything. That was followed by motions that demonstrated, among other things, that under the tax law, the IRS deficiency claim was 97% frivolous, (and 3% wrong) meaning that for the two years combined we could not owe more than \$8,000. The Tax Court ruled against us on

all issues, including the right of joint filing husband to appear when the Deficiency Notice is only to the wife. The case was referred to Appeals.

The Appeals Panel took the same position: We owed a quarter million dollars, but they would negotiate it down if we were willing. I refused to negotiate at all until they showed probable cause to believe that we owed anything on the sale of the house. **The law was that clear.** Eventually, they conceded, not as negotiation, but as an outright concession in writing that nothing is owed on the sale of the house, so let's discuss and negotiate the remaining \$8,000. We did, but could not reach agreement because the Appeals Panel was still in bad faith on that too, giving demonstrably false reasons to deny the business expenses in total. So they referred us back to an IRS trial attorney to negotiate or go to trial.

That attorney, Christian Speck, started all over again saying we owed a quarter million but he would "negotiate" down to \$8,000. That is extortion and I called it for what it is. He tried to make excuses, saying that incomplete negotiations with Appeals Panel was not binding on him, but what happened at Appeals was not an "incomplete negotiation" but an unqualified duly thought out admission that there is no tax due on the house transaction. He then spuriously claimed we were not entitled to the half million dollar exemption for joint filers because the IRS filed the Notice of Deficiency only against her. We responded that it didn't matter because there was not a quarter million gain in the transaction either. At first he said that he would dismiss the claim if we proved a basis and cost sufficient to reduce the gain to below a quarter million. We did. Then he reneged and said he would go to trial on the whole amount unless we accepted an \$8,000 settlement. A couple of days before trial, my wife agreed to the extortion. This was not "attempted extortion". It is consummated extortion. I begged her to put him to the test: If it was real extortion as opposed to a settlement wherein she did not have to appear at court, she should rescind the agreement. We met with Mr. Speck; she signed the papers, then he required she go to court the next day to admit the settlement, and on that, she rescinded.

At pretrial before Judge Morrison, Speck maintained that we owed a quarter million and that was the issue to be tried. In the meantime I put together a motion in limine demonstrating the extortion and served Speck. When I tried to present it, twice Speck interrupted and changed the subject. The third time I introduced it as IRS extortion on the sale of the house. Speck tried to overpower my comments but then conceded the issue to prevent the motion from being heard on the record. But there is enough in the papers and on the record to prove Speck intended to commit extortion which under the circumstances is a criminal civil rights violation too. With that on the record, 97% of the IRS case went away, and the judge pretended not to know what had just happened ... but he "pretendith too much."

The Court would not let me join the action as a necessary interested party nor even help my wife present the case. But we went to trial knowing that it violates due process of law to commit extortion in such a grossly disproportionate amount and require a party to be prepared for trial on the 3% of the case remaining. My wife presented the case as best as she could, and I testified, an extreme emotional test where I had to fight to testify through my crying; and why was I crying? Because these government officers were so outrageously making a mockery of our

Constitution to which we were all sworn and for which I and so many others have willingly put our lives on the line, only to be deserted by our government for petty personal motives, to defeat the legacy of our Founding Fathers.

After trial there were written briefs and motions extending over a year, before the court rendered its opinion. That combination of writings demonstrates that Judge Morrison was aware of the extortion and as a matter of IRS policy which has to involve the IRS Commissioner, covered it up and endorsed it. Meaning that government extortion right in front of the Tax Court and with its tacit participation is an accepted form of business operation by the IRS. If I can get this matter before a grand jury, I expect that the Commissioner, the Judge and Mr. Speck will be indicted. The Commissioner is civilly liable because the judge and IRS Attorney have a false but none the less effective "absolute civil immunity".

So, Ms. Looney, why have I told you all of this? It is because you say in your letter that you are "committed to improving the IRS services." I am mindful of Mr. Obama's First Directive as President:

All agencies are to develop policies of transparency and accountability, and I suppose that your concern is pursuant to that directive. The question becomes how can you take your small part of the system and make it transparent and accountable when it is an integrated part of a system that is designed to operate without Constitutional guidelines and cover-up its official corruptions as a matter policy?

There are two things you can do to alleviate your end of the problem. First, investigate all claims of wrongful denial of injured spouse claims. If mistakes are made, training is the proper discipline. But where the "mistakes" are intentional or in conscious disregard of rights, the agent has no business ever being in any position of government power. That must be **Your Policy**. Second, reward the "customers" that make such claims where your investigation proves them correct, and pay their costs and attorney fees. The principle is to avoid the conflict: No one should ever benefit from their own wrongs.

The real problem that you face has less to do with improving service on injured spouse claims than it does with improving the context within which injured spouse claims are made. Your control over the injured spouse process is limited at both ends. It begins with a tax refund intercept in which the due process of law may or may not have been afforded to the subject of the intercept, and that subject is likely to be highly charged events like child support over divorce and child custody issues and school loans where school did not produce reasonable results. Thus, the intercept itself may be unjust and you have no way of knowing about the justness or unjustness of the underlying debt.

The other half of the problem is just as bad: You cannot trust the IRS Attorneys and Tax Court to do their lawful job or to respect the limits the law imposes on doing their job. Wrongfully denied injured spouse claims can just be covered up because the system is organized to do just that. Our 2001 injured spouse claim was properly made, and then litigated. The trial was transcribed and briefed. There is no other way to describe it, but for a mere \$600, the IRS attorney and the trial judge conspired to intentionally extort money and violate our civil rights as well as their

own oaths to support the Constitution. They didn't just make mistakes under color of law. They intended to violate what they knew to be the law simply to defeat a justified injured spouse claim. Why did they do that? It could be for any reason or no reason at all. But in the end the answer is this: "They did it because they can do it and get away with it." Corruption is part and parcel of the power to be corrupt ... and ... "As power corrupts and absolute power corrupts absolutely, **immunity is the absoluteness of power in any given sphere that corrupts the use and abuse of that power in that sphere absolutely.**" (Quoting myself)

There is more than just the 2001 Injured Spouse Claim pending. Attached is a Request for an Accounting of the other claims in which the IRS confiscated my wife's separate property to pay what the DoE claimed as my separate debt which predated our marriage.

Very truly yours

John and Kristine Wolfgram

REQUEST FOR AN ACCOUNTING

Petitioners are not sure of whether some of the funds below were ultimately returned to them, just that they are all reflected on the Department of Education's statement of funds received from intercepts and not returned to the IRS, except for the intercept of July 9, 2010, which was returned to the IRS and to us pursuant to our second Injured Spouse Claim on that intercept. The uncertainty is due to circumstances related to PTSD reported in the accompanying letter to Jane Looney of November 12, 2010. Thus, Petitioners seek an accounting of the below listed items and a set off as bond for the roughly \$10,000 claimed by the IRS in Tax Court cases 28919-07 and 27988-07 now pending in the Ninth Circuit Court of Appeal as Case No. 10-73300, so as to reduce or eliminate the IRS cause to harass us during the pendency of appeal.

1. August 24, 2001, \$600 converted under color of law and stolen by the IRS.
2. September 6, 2002, \$1,774.66, converted and its return unaccounted for.
3. August 29, 2008, \$1,900.99 Converted and its return unaccounted for.
4. October 10, 2008, \$4,943.79 Converted and its return unaccounted for.
5. May 21, 2009, \$250; probably a lawful intercept of a tax rebate, but it requires an accounting.
6. July 9, 2010, \$1675.38; converted but returned on second Injured Spouse demand.

Dated: November 12, 2010

John and Kristine Wolfgram